

## **EXHIBIT “J”**

**Bernardo, Michael R.**

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**From:** Stephen Gordon [sgordon@gordonhaley.com]  
**Sent:** Wednesday, June 08, 2005 11:18 AM  
**To:** Higgins, Erin; Bernardo, Michael R.  
**Cc:** 'Todd Gordon'; 'O'Connell, Scott'  
**Subject:** Pointe Group Documents

Dear Erin and Mike,

I have had the folks at John McCullough's office looking for ownership and organizational documents for the entities whose assets were sold and for The Pointe Group. The search has been complicated because Mary Ann Tyler, who knows the most about the documents, fractured her foot and has been out. I have asked that I receive whatever they can locate in Mary Ann's absence and send it to me whenever they have it. As soon as Todd or I have given the documents a quick look, they will be produced to you with the understanding that the search (and production) will continue until we have exhausted our resources. I am advised that much of the documentation you are seeking may have been provided to Key at the time it made its loans. If Key's recordkeeping is better than my clients', you would have better luck there.

I'll see you tomorrow at 10 AM for my deposition.

Steve

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June 15, 2005

Erin K. Higgins, Esquire  
Conn Kavanaugh Rosenthal Peisch & Ford, LLP  
Ten Post Office Square  
Boston, Massachusetts 02109

Re: Casas, Benjamin & White v. The Pointe Group, et al

Dear Erin:

I have received the following documents from John McCullough's office which I enclose:

1. Articles of Organization for Cranberry Pointe Nursing Home, Inc.;
2. Operating Agreement for Chestnut Hill Life Care Realty, LLC;
3. Operating Agreement for Hammond Point (sic) Nursing Home, LLC; and
4. Operating Agreement for Boylston Place at Chestnut Hill, LLC.

John McCullough's office tells me that they are continuing to search for formation and ownership documents. Again, you may have more luck with Key Bank (I see that you have now sought documents from them) as they may have required ownership and/or formation documents at the time of making their loans.

Sincerely,



Stephen F. Gordon  
SFG:vsh  
Enclosures

cc: W. Scott O'Connell, Esquire (with enclosures)

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June 16, 2005

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BY FACSIMILE AND MAIL

Stephen F. Gordon, Esq.  
 Gordon Haley, LLP  
 101 Federal Street  
 Boston, MA 02110

RE: Casas Benjamin & White v. The Pointe Group, Inc., et al.

Dear Steve:

I have your June 15, 2005 letter and the enclosed documents. While I appreciate your representation that John McCullough's office has looked for, and is continuing to look for, documents pertaining to the formation and ownership of the various healthcare entities, in my opinion Mr. McCullough was required to conduct such a search prior to his deposition, and with respect to all of the categories of documents identified in the schedule of documents attached to his subpoena. I have now reviewed the transcript of his deposition testimony, and it is apparent to me that no such search was conducted. Instead, it appears that Mr. McCullough simply assumed (or was advised) that all documents responsive to the subpoena were produced in connection with TPG's response to CBW's first request for production of documents. Based on Mr. McCullough's deposition testimony, I have identified several groups of documents that were responsive to the subpoena, and not produced as part of TPG's production. I am therefore writing, pursuant to Local Rule 7.1 and Rule 45(e), to request that Mr. McCullough (or persons employed in his office) undertake a further review of the Schedule A attached to Mr. McCullough's deposition subpoena and a review of Mr. McCullough's files to ascertain whether there are additional responsive documents.

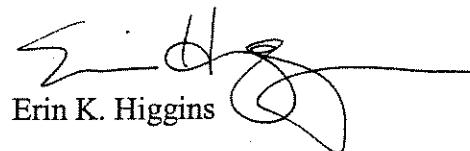
Please let me know at the earliest opportunity whether Mr. McCullough will agree to undertake such a further review. Otherwise, we intend to file a motion to compel on this issue. We also intend to move to compel Mr. McCullough to answer those deposition questions he was instructed not to answer at his deposition on the grounds of attorney-client privilege (and any questions following from his answers to those questions).

Stephen F. Gordon, Esq.  
June 16, 2005  
Page 2

In connection with the motion to compel, we also intend to seek an order requiring your clients to pay the costs of our preparation of the motion to compel, and the costs associated with reconvening Mr. McCullough's deposition. If Mr. McCullough is now willing to answer the questions he did not answer on May 19<sup>th</sup> and to conduct a further search for documents, and your clients are prepared to pay the costs of reconvening his deposition, please let me know immediately so that we can avoid having to file the motion to compel.

Thank you for your attention to the above.

Very truly yours,



Erin K. Higgins

EKH/lm:1915-000

cc: Thomas E. Peisch, Esq.  
Michael R. Bernardo, Esq.  
W. Scott O'Connell, Esq. (by facsimile and mail)  
Mr. Edward R. Casas, Managing Director

228790.1

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**FACSIMILE COVER PAGE**

DATE: June 16, 2005  
TO: W. Scott O'Connell, Esq.  
COMPANY/FIRM: Nixon Peabody LLP  
FACSIMILE #: **617.345.1300**  
FROM: Erin K. Higgins, Esq.  
RE: CBW/Pointe Group  
MESSAGE: Please see attached. Thank you.

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 COMPANY/FIRM: Nixon Peabody LLP  
 TO: W. Scott O'Connell, Esq.  
 FROM: Erin K. Higgins, Esq.  
 RE: CBW/Pointe Group  
 MESSAGE: 226794.1  
 Please see attached. Thank you.

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**FACSIMILE COVER PAGE**

DATE: June 16, 2005  
TO: Stephen F. Gordon, Esq.  
COMPANY/FIRM: Gordon Haley LLP  
FACSIMILE #: **617-261-0789**  
FROM: Erin K. Higgins, Esq.  
RE: CBW/Pointe Group  
MESSAGE: Please see attached. Thank you.

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